

Application No. 09/649,122
Filed: August 28, 2000
TC Art Unit: 3626
Confirmation No.: 7057

REMARKS

The foregoing Amendment is filed in response to the official action dated January 18, 2006. Reconsideration is respectfully requested.

The status of the claims is as follows:

Claims 1-14, 16, 20, 22-24, 27-45, and 82-84 are currently pending in the application.

Claims 1-14, 27-45, and 82-84 stand rejected.

Claims 16, 20, and 22-24 are objected to.

Claims 22, 82, and 84 have been amended.

Claims 16 and 20 have been canceled without prejudice.

The Examiner has rejected claims 82-84 under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The Applicants have amended claim 82 to recite a business volume and workforce requirements forecasting system that includes a computer system. In addition, the Applicants have amended claim 84 to recite that the computer system of claim 82 includes means for selecting at least one event from an event calendar. Because claims 82-84, as amended, recite a technological component, namely, a computer system, the Applicants respectfully submit that the system of claims 82-84 apply, involve, use, and/or advance the technological arts. Accordingly, it is respectfully submitted

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that claims 82-84, as amended, satisfy the requirements of 35 U.S.C. 101, and therefore the rejections of claims 82-84 under 35 U.S.C. 101 should be withdrawn.

The Examiner has rejected claims 1-14, 27-45, and 82-84 under 35 U.S.C. 103(a) as being unpatentable over Landvater (USP 6,609,101) in view of Tsushima et al. (USP 4,852,001) and Hesse et al. (USP 5,274,571). Specifically, the official action indicates that the Landvater reference teaches the method of forecasting business volume and workforce requirements of base claim 1, with the exception that Landvater does not teach the step of calculating workforce requirements including resource leveling. The official action further indicates that the feature of resource leveling is well known in the art as evidenced by the Tsushima reference and the Hesse reference, which purports to teach the claimed steps of resource leveling, as recited in claim 1. The Applicants respectfully submit, however, that the official action has failed to establish a prima facie case of obviousness, and therefore the rejections of claims 1-14, 27-45, and 82-84 under 35 U.S.C. 103 are unwarranted and should be withdrawn.

It is well settled that to establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the prior art references themselves or in the knowledge

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generally available to one of ordinary skill in the art, to modify a reference or to combine reference teachings. The Applicants respectfully submit that there is no such suggestion or motivation to combine the teachings of the Landvater, Tsushima, and Hesse references, either in the references themselves or in the knowledge generally available to one skilled in the art.

Specifically, the Landvater reference discloses a system and method for simulating the business of retail organizations for the purposes of better managing inventories and finances, particularly, for forecasting product sales in a retail store supply chain and for determining replenishment shipments to various entities in the supply chain (see column 1, lines 11-19, of Landvater). The Tsushima reference discloses a scheduling method for allocating a time and a job to a person or an installation (see column 1, lines 5-10, of Tsushima et al.). Moreover, the Hesse reference discloses a system for regulating or managing the supply of electric power to load sites such as office buildings and the like (see column 1, lines 5-10, of Hesse et al.). As described in the instant application, the claimed invention relates to a workforce management system that allows users to forecast, schedule, track, and pay their workforce

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according to their business's expected sales mix (see page 2, lines 4-5, of the application).

The Applicants respectfully submit that the systems and methods disclosed in the Landvater, Tsushima, and Hesse references solve significantly different problems, namely, the problem of product sales forecasting (Landvater), the problem of time and job allocation (Tsushima et al.), and the problem of electric power regulation and management (Hesse et al.). Although the problem solved by Tsushima et al. relates to scheduling and allocating a time and a job to a person, neither the Landvater reference nor the Hesse reference has anything to do whatsoever with managing, forecasting, scheduling, tracking, and/or paying a workforce. The Applicants therefore submit that one skilled in the art would not have been motivated to combine the teachings of the Landvater, Tsushima, and Hesse references to obtain the workforce management system described and claimed in the instant application. Because no motivation exists for combining the Landvater, Tsushima, and Hesse references, a prima facie case of obviousness has not been established. Accordingly, it is respectfully submitted that the rejections of claims 1-14, 27-45, and 82-84 under 35 U.S.C. 103 should be withdrawn.

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Even if a *prima facie* case of obviousness were properly established, the combination of the Landvater, Tsushima, and Hesse references still would not render claims 1-14, 27-45, and 82-84 obvious. As discussed above, the official action indicates that the Landvater reference teaches a method of forecasting business volume and workforce requirements, and that the Tsushima and Hesse references teach resource leveling. The Applicants respectfully submit, however, that the official action has failed to take into account all of the limitations of base claim 1, and has therefore failed to consider the subject matter of claim 1 "as a whole", as required in a proper § 103 analysis.

For example, the official action has failed to consider all of the resource leveling steps recited in base claim 1, particularly, the steps of determining valleys in a preliminary schedule, ranking the valleys, assigning at least one unassigned task to a highest-ranked valley, and repeating the steps of determining peaks, determining valleys, ranking the valleys, and assigning at least one unassigned task. Instead, the official action directs the Applicants' attention to the Hesse reference, which merely teaches that time-of-use and/or real-time prices can be adjusted to smooth demand on an electric power supply system (see column 6, lines 53-56, of Hesse et al.). Clearly, such

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minimal teaching relating to the smoothing of electric power supply demand, combined with the teachings of Landvater and Tsushima et al., would not have suggested to one skilled in the art the method of forecasting business volume and workforce requirements, including the claimed steps of resource leveling, as recited in claim 1 and the claims dependent therefrom.

Specifically, with respect to dependent claims 27-30, the official action indicates that in the collective method of Landvater, Tsushima, and Hesse, valleys are ranked based on their depth and width, each valley's rank is computed as $(D/W)*C$, in which "D" is the valley's depth, "W" is the valley's width, and "C" is the valley's rounding cost, peaks are determined in the preliminary schedule, the valleys are responsive to the determined peaks, and at least one unassigned task is assigned to a lowest portion of the highest-ranked valley. The official action further indicates that such a "smoothening" or leveling technique is disclosed by Landvater at column 12, lines 9-56. The Applicants respectfully point out, however, that on page 4 of the official action, it is stated that "Landvater does not teach the steps of calculating workforce requirements includes (sic) resource leveling". If Landvater does not teach the steps of calculating workforce requirements including resource leveling, as indicated

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on page 4 of the official action, then the Landvater reference cannot disclose the refinements of such resource leveling, as recited in dependent claims 27-30. The Applicants respectfully submit that the disclosures of Landvater, Tsushima et al., and Hesse et al., whether taken alone or in combination, do not teach or suggest the steps of calculating workforce requirements including resource leveling, as recited in base claim 1 and claims 27-30 depending therefrom, particularly in the context of forecasting business volume and workforce requirements.

Because the Landvater, Tsushima, and Hesse references, taken alone or in combination, do not teach a method of forecasting business volume and workforce requirements, including the resource leveling steps of determining valleys in a preliminary schedule, ranking the valleys, assigning at least one unassigned task to a highest-ranked valley, and repeating the steps of determining peaks, determining valleys, ranking the valleys, and assigning at least one unassigned task, the combined teachings of Landvater, Tsushima et al., and Hesse et al. would not have suggested to one skilled in the art the method of forecasting business volume and workforce requirements recited in claim 1 and the claims dependent therefrom. For at least the reasons presented above with reference to claim 1, the Applicants further submit that the

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combined teachings of Landvater, Tsushima et al., and Hesse et al. would not have suggested to one skilled in the art the business volume and workforce requirements forecasting system recited in amended base claim 82 and the claims dependent therefrom. Accordingly, it is respectfully submitted that the rejections of claims 1-14, 27-45, and 82-84 under 35 U.S.C. 103 should be withdrawn.

The Examiner has rejected claims 82-84 under 35 U.S.C. 103(a) as being unpatentable over Landvater in view of Tsushima. However, as indicated on page 4 of the official action, the collective teachings of Landvater and Tsushima et al. do not teach that resource leveling comprises determining valleys in a preliminary schedule, ranking the valleys, and assigning at least one unassigned task to a highest-ranked valley. The Applicants therefore respectfully submit that the combined teachings of Landvater and Tsushima et al. would not have suggested to one skilled in the art the business volume and workforce requirements forecasting system recited in amended base claim 82 and the claims dependent therefrom. Accordingly, it is respectfully submitted that the rejections of claims 82-84 under 35 U.S.C. 103 should be withdrawn.

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In view of the foregoing, it is respectfully submitted that the present application is in a condition for allowance. Early and favorable action is respectfully requested.

The Examiner is encouraged to telephone the undersigned Attorney to discuss any matter that would expedite allowance of the present application.

Respectfully submitted,

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